

CHAPTER 2

THE LAW LIBRARY AND LEGAL RESEARCH

As part of your duties as an LN, you may be responsible for the proper maintenance and upkeep of the office law library. The importance of a properly maintained law library is sometimes overlooked. The law library should be setup and maintained to meet the needs of those who will be using it rather than for the convenience of the librarian. Attorneys, LNs, and others involved in legal research must be able to find the current status of the law. Accordingly, the ability to efficiently perform the task of researching reference material will depend to a large extent on how well the law library is maintained.

THE LAW LIBRARY

A law library is a collection of legal reference materials of several different types, consisting of various formats, including hardbound volumes, paperback supplements, loose-leaf services, pamphlets, handbooks, manuals, periodicals, and advance opinions.

The type of materials contained in a library is governed by many considerations, such as the size and functions of the office it is designed to serve, and the preferences of the personnel assigned to that office. The library in a small staff judge advocate (SJA) office might consist of a few hundred volumes, whereas several thousand volumes might be needed in the library that serves a large naval legal service office (NLSO).

Regardless of the library's size, your first task as a librarian is to determine what legal reference materials are contained in the library and where they are located. Legal reference materials fall into three broad categories that include the following:

- Primary sources—These contain the law as stated in statutes, case decisions, and regulations.
- Finding tools—These are aids used to help locate the information contained in primary sources,
- Secondary sources—These contain discussions or explanations of the law that can be useful in examining the legal concepts and problems associated with a particular law from both a practical and theoretical point of view.

Further on in this chapter, we will examine the different types of legal reference material that are grouped in these three categories.

SOURCES OF THE LAW

The primary sources of law in the United States are the *U.S. Constitution*, its amendments, and the *Bill of Rights*.

This type of law is called the supreme law of the land and is also commonly known as constitutional law. Constitutional law addresses such matters as your right to counsel, your right to a trial of the facts by your peers, your right against self-incrimination, and your right to be confronted by and to cross-examine any witnesses against you.

The second source of law includes those laws passed or enacted by the various legislative bodies such as Congress or state legislatures. These laws come from the federal and state statutes and are commonly called statutory law. These laws include such matters as federal and state income tax laws, controlled substance laws, drunk driving laws, and gun control laws, to name a few.

A third source of law comes from the judicial system itself. This type of law is based on the concept that our judges will apply either constitutional or statutory law, or will apply a previous court decision to the facts in a given case, thereby rendering a fair and proper decision in the case. This type of law is referred to as case law. Case law is very important because it is often used by attorneys in an effort to persuade a judge to decide a case favorably toward their side. Case law provides guidance and in many instances the requirements for the proper conduct of trials and for the administration of justice in cases. For example, the case of *U.S. v. Allen* makes it mandatory for courts to give every accused person credit against his or her sentence for any pretrial confinement adjudged at trial. There are thousands of cases that have previously been decided by courts and each decision may have an effect on all future cases with either the same or similar facts.

A fourth source of law is administrative law. Administrative law originates primarily with

governmental agencies such as the Department of Transportation, the Department of State, the Department of Agriculture, and the Department of Defense. For example, the Department of the Navy has issued the *U.S. Navy Regulations*, 1990. These regulations are not constitutional law because they are not founded in the *U.S. Constitution* nor any state constitution. They are not statutory law since neither Congress nor any state legislature enacted any law regarding Navy regulations. They are not case law since they did not come into effect as a result of a case decision. Navy regulations were written by the Navy to regulate behavior within the Department of the Navy and as such are administrative in nature. Although some of the regulations may be punitive, they are still administrative law.

A fifth source of law is really nothing more than a combination of any or all of the previous four sources. A good example of this type of law is the *Manual for Courts-Martial* (MCM). Congress enacted the *Uniform Code of Military Justice* (UCMJ) as law. The Congress also enacted a law giving the President of the United States, as the Commander in Chief, the power to enact rules that are necessary to regulate and govern the armed forces, including the enforcement of the UCMJ. The President did this by issuing what is called an Executive Order placing the MCM into effect.

The MCM contains the procedural rules for the proper conduct of trials, known as the Rules for Courts-Martial or R.C.M. The MCM also contains the rules governing what items may be admitted into evidence. These rules are known as the Military Rules of Evidence or Mil.R.Evid. Some of these rules are based on constitutional law such as the rule that gives all military accused the right to counsel. The MCM also contains statutory law such as the UCMJ. Moreover, the MCM refers to case law for some rules. The MCM also contains administrative law that provides the rules that must be followed to hold a court-martial. As you can see, the MCM contains many different types of law and is a good example of a combination of laws.

From all the previously mentioned sources, you should be able to see that a great deal of law is written on many topics virtually every day. For the attorneys to be effective at their jobs, it is critical that they have access to the most recent law in any given area. The lawyers must also be able to rely on the information that is available in the law library. Therefore, it is very important that you maintain the library and keep it as up to date as possible.

Official v. Unofficial

Many field libraries contain both official and unofficial sets of books. There are some differences between them. A set of books is considered official when one of the two following tests is met:

- If the book is published pursuant to some sort of statutory direction or law, then it is considered to be the official set of books to report the laws or cases within the jurisdiction of the legislative body that enacted the statute. For example, there is a federal statute that states that the *United States Code* (U.S.C.) will be the official set of books to report all the statutes enacted by the U.S. Congress. Any other set of books that reports these same statutes would be considered unofficial.
- The other test is met when the author of the book allows a publisher to print the material. Since the author has given permission for the printing, it is considered official. If you authored a book and then authorized a certain publisher to print it, you then would consider that publisher's printing of your book to be the official version and any other printing by another publisher to be unauthorized and thus considered unofficial.

Most libraries contain official and unofficial sets of books that report the same cases. For example, the U.S.C. is the official set of books that reports the statutes enacted by Congress. Additionally, two unofficial sets of books that report the same law are the *United States Code Annotated* (U.S.C.A.) and the *United States Code Service* (U.S.C.S.).

You may ask yourself why there are three sets of books that report the same thing? There are several reasons a command might want to subscribe to the unofficial set of books as well as the official set of books. The unofficial sets often extend beyond a single jurisdictional boundary and will report the case for an entire geographical area rather than for a single state. For example, the *Atlantic Reporter*, part of the *National Reporter System*, covers the cases for the states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, and Washington, DC. When several states report cases in a single set of books, you can see why the set of books would be published sooner than publishing one set for each state.

The unofficial sets are usually uniform in how the material is indexed. West Publishing Company, for example, uses the system known as the key numbering system for all its books.

List of Lawbooks in the Typical NLSO Law Library

The following list of lawbooks is usually included in all NLSO law libraries:

- *United States Reports*
- *Lawyer's Edition of the Supreme Court Report*
- *Supreme Court Reporter*
- *United States Law Week*
- *Federal Reporter*
- *Federal Reporter, 2d Series*
- *Federal Supplement*
- *Military Justice Reporter*
- *Court-Martial Reports*
- *United States Code Annotated*
- *Code of Federal Regulations*
- *Black's Law Dictionary*
- The local state statutes

Sources of Authority

There are three types of books in the law library; those that contain the laws that are to be enforced by our government; those that explain or try to describe the law; and those that help us to find a particular law. These books fall into three basic categories called primary authority, secondary authority, and finding tools. Do not confuse this manner of description with official and unofficial.

Primary authority includes rules for human behavior that are enforced by the state or federal government. In other words, it is the law and it must be followed. Primary authority may be in the form of court decisions, statutes enacted by our Congress or other legislative bodies, or administrative law.

You will find that when Congress enacts a law, it is usually written in very broad and general terms so many people are affected by it. The courts then apply the laws to a specific set of facts. The courts also use prior decisions of courts to guide them in how to decide a case. A legal term known as *stare decisis* is followed in most cases by the court system. By definition it means to adhere to precedents and not unsettle those things that are already established. In simpler terms, this means

that when the facts of a current case are basically the same as the facts in a case previously decided by the courts, then the decision reached by the court in the current case should be the same as it was in the earlier case.

Secondary authority is not the law itself, but instead is an explanation or description of the law. Since it is not actually the law itself, it lacks legal authority in a formal sense, but it has some degree of persuasive value. This persuasive value exists because of the soundness of the reasoning of the explanation or description; or possibly because of the status of the court presenting it; or possibly because of the author's explanation or description. It, most often, is contained in unofficial sets of books, but not always.

Some types of books that might be secondary authorities are text books, treatises, commentaries, restatements, and periodicals.

Finding tools are those books that help the researcher to find a particular law contained in a primary or secondary source. It is estimated that some 30,000 new decisions are made each year in our court systems. In addition, there are already more than 18,000,000 published decisions. It would be physically impossible for any one person to read all of them, let alone try to remember them and then use them to prepare a case for trial. As the term *finding tools* indicates, these books are the tools of the researcher. Learning to use them makes conducting research much easier.

Some samples of finding tools are digests, citators, encyclopedias, phrase books, indexes, some loose-leaf services, annotated compilations, and dictionaries.

MINIMUM REQUIREMENTS

Every law library should contain those legal reference materials that are required for the lawyers using that library to adequately perform the legal research necessary to provide effective service in their areas of responsibility. Even though you will not be primarily responsible for determining what material should be contained in the library, you should be familiar enough with the contents of the library and the demands placed on it for specific research materials to recommend or at least be able to provide a list of books that lawyers should have available for their use when requested. To accomplish this, it may be necessary to ask the lawyers in your office what materials they need. In addition to this, you also should check the standard minimum list of commercial lawbooks that is provided to all field libraries by the Judge Advocate General (JAG). This

list, as shown in figure 2-1, is a guide to what is available from JAG. An SJA located near another law library would not need a full collection, whereas an SJA in an isolated location may need a full collection and perhaps more.

This standard minimum list does not cover all the legal research materials that may be required by your office. The Head, Field Law Library Section is responsible for providing an initial supply of only those materials on the standard minimum list, but is also

STANDARD MINIMUM LIST - COMMERCIAL LAWBOOKS NAVAL LEGAL SERVICE OFFICE LIBRARIES (All items listed) NAVAL LEGAL SERVICE DETACHMENTS (*) STAFF JUDGE ADVOCATE LIBRARIES (#)	
<u>Federal Materials</u>	
*	ALR Federal
	Federal Digest (closed set for federal cases before 1940)
	Federal Jury Practices & Instructions
	Federal Reporter 1st (closed set in ultrafiche only)
	Federal Reporter 2d, with Advance Sheet subscription (vols 1-600 in hard copy or ultrafiche)
	Federal Supplement, with Advance Sheet subscription
*#	Military Justice Citations
*#	Military Justice Digest
*#	Military Justice Reporter
*	Military Law Reporter subscription (every 2 months)
	Modern Federal Practice Digest (closed set for federal cases 1940-1960)
	Shepard's Federal Citations
	Shepard's Military Justice Citations
*	Shepard's U.S. Citations (cases and statutes)
*#	U.S. Code Annotated <u>or</u> U.S. Code Service
*	U.S. Code Congressional and Administrative News
*#	U.S. Court of Military Appeals Slip Opinions
*#	U.S. Law Week subscription (weekly)
*	U.S. Supreme Court Digest (to match reporter held)
*	U.S. Supreme Court Reporter (West <u>or</u> Lawyers Ed.)
	West's Federal Practice Digest 2d (for federal cases 1960-1975)
	West's Federal Practice Digest 3d (for federal cases since 1975)
<u>Criminal Law Materials</u>	
*	ABA Standards for Criminal Justice
*	Crimes of Violence—Homicide and Assault
*	Crimes of Violence—Rape and Other Sex Crimes
*	Cross-Examination in Criminal Trials
*	Federal Rules of Evidence Manual

Figure 2-1.—Standard minimum list—commercial lawbooks.

- * Goldstein Trial Technique
- * Handling Narcotic and Drug Cases
- * Investigation and Preparation of Criminal Cases
- * Military Rules of Evidence Manual
- * Shepard's Criminal Justice Citations (for ABA Standards for Criminal Justice)
- Standards for Criminal Justice (ABA)
- * Successful Techniques from Criminal Trials
- * Wharton's Criminal Evidence
- * Wharton's Criminal Law
- * Wharton's Criminal Procedure

Legal Assistance Materials

- *# Family Law Reporter weekly (limited to 100 domestic law cases yearly)
- *# Federal Tax Manual
- *# Legal Formulary (AMJUR2d or West 2d or Jones)
- *# Martindale-Hubbell Law Directory (every other year, Law Digest volume every year)
- *# NADA Official Used Car Guide subscription
- *# NADA Title and Registration Book or AAA Digest of Motor Laws
- *# State statutes as needed

General Materials

- ALR 2d (in hard copy or microfiche, closed set kept current with ALR 2d Later Case Service)
- ALR 2d Digest
- ALR 3d (closed set kept current with pocket supplements)
- ALR 4th
- ALR Digest (for ALR 3d, 4th, Federal)
- AMJUR Pleading and Practice Forms Annotated
- AMJUR Proof of Facts (30 vols closed set kept current w/pocket supplement)
- AMJUR Proof of Facts 2d (continuation of AMJUR Proof of Facts)
- AMJUR Trials
- *# Effective Legal Research
- Ethics Treaties
- *# Law Dictionary
- * Legal Encyclopedia (AMJUR2d, CJS)
- *# Medical Legal Dictionary
- *# Uniform System of Citation (Harvard "Blue Book")
- * Weinstein's Evidence
- Words and Phrases

Civil Practice (Federal and local) Materials (stateside NLSO only)

- American Law of Medical Malpractice
- Federal Practice and Procedure

Figure 2-1.—Standard minimum list—commercial lawbooks—Continued.

<p>Handling Federal Tort Claims, Personal Injury</p> <p>NADA Appraisal Guides Official Car, Older Car, etc.</p> <p>Regional or State Reporter, w/Advance Sheet subscription, as needed (Regional Reporters available also in ultrafiche)</p> <p>Regional or State Digest (to match reporter system)</p> <p>Shepard's Citations (to match reporter system)</p> <p>West Federal Forms</p>

Figure 2-1.—Standard minimum list—commercial lawbooks—Continued.

responsible for providing automatic upkeep service on many other commercial lawbooks that are not listed. Commercial lawbook needs vary from office to office. Each year, each field library is informed by JAG Report 5070-2 (to be discussed later in this chapter) of the exact materials maintained for them by JAG.

Other reference materials (noncommercial) needed for your library may be handled by one of several other offices in OJAG. These include the following:

- The *JAG Journal* and the *Off the Record*—published and distributed by the Office of the Executive Assistant to JAG.
- The *Legal Newsletter*— materials about continuing legal education and legal assistance are published and/or distributed by the Continuing Legal Education/Legal Assistance Policy Division of JAG.
- The *Military Justice Reporter*— although published by West Publishing Company, it is considered noncommercial and is provided to all JAG field activities by the Publications section of OJAG. This office also provides for the distribution of *Shepard's Military Justice Citations*, military legal publications such as the *Military Law Review* published by the Department of the Army, and publications of the Government Printing Office (GPO) such as the MCM. In addition to the previous services, the Publications section is also responsible for distributing JAG instructions and notices, as well as the *JAG Manual*.

Of those offices briefly mentioned previously, you will probably have more direct contact with the Field Library section and the Publications section than any other. The following discussion is provided to help you better understand the functions and responsibilities of these offices and their relationship to the field law libraries.

FIELD LAW LIBRARY SECTION, OJAG

The Field Law Library Program was established in 1974 to centralize purchasing of commercial lawbooks for Navy field law libraries. Centralized purchasing results in (1) reduced administrative costs by combining individual requisitions; (2) frequent publisher discounts for bulk purchases; and (3) standardized field law libraries for the Naval Establishment.

The Head, Field Law Library section acts as primary advisor to JAG on all matters related to the commercial lawbook needs of the field library activities as well as keeping track of the status of the commercial books and services contracted and paid for by JAG. Additionally, this office is responsible for keeping JAG informed on which contracted services are to be renewed or canceled, which materials provided to field libraries have been replaced due to loss or damage, and which new materials, if any, should be purchased for use by the field libraries.

As an aid in keeping track of the needs of the field libraries and the status of the contracted services, an annual report is sent to each individual field library. This report serves a dual purpose because it provides a list of the commercial lawbooks and services that are automatically provided for each field library by JAG and also provides the Field Library section with valuable information that can be used to determine which services need to be renewed, which can be canceled, and which materials, if any, need to be replaced. A sample of this report, JAG Report Symbol JAG 5070-2, is shown in figure 2-2. We will discuss your responsibilities concerning this report more fully later in this chapter.

The Field Library Program handles only commercial lawbooks. The *Code of Federal Regulations* and the *Federal Register* may be obtained from the OJAG Publications Section, Code 64; the *Naval Law Review*

JAG REPORT SYMBOL JAG 5070-2

SAMPLE

SAMPLE

SAMPLE

Staff Judge Advocate, Naval Station, Norfolk, Virginia 23462

LIST OF COMMERCIAL LAWBOOKS for which maintenance (pocket parts, new volumes, replacement sets, as published, and/or subscription renewals) will be provided automatically by the JAG centralized fund.

NATIONAL MATERIALS

AMERICAN JURISPRUDENCE LEGAL FORMS 2d - Lawyers Co-op

AMERICAN JURISPRUDENCE 2d with New Topic Service - Lawyers Co-op

MARTINDALE-HUBBELL LAW DIRECTORY with STATE LAW DIGEST

MILITARY LAW REPORTER - Public Law Education Institute

MOYER'S JUSTICE AND THE MILITARY - Public Law Education Institute

NADA OFFICIAL USED CAR GUIDE

NADA TITLE BOOK

U.S. CODE ANNOTATED - West

U.S. LAW WEEK - BNA

STATE MATERIALS

VIRGINIA STATUTES ANNOTATED - West

The foregoing list stands correct as of _____

Signature of OIC or SJA

Figure 2-2.—JAG Report Symbol JAG 5070-2.

(formerly the *JAG Journal*) is available from the Naval Justice School and *Off the Record* from the Executive Assistant to the Deputy Judge Advocate General, Code 001A. The *JAG Manual*, the MCM, and Navy directives may be ordered from the Naval Publication and Forms, Navy Aviation Supply Office, Philadelphia,

Pennsylvania 19120. Individual commands are responsible for ordering GPO publications and copies of *U.S. Treaties and Other International Agreements* from the GPO. Periodical subscriptions such as law journals must be ordered with the commanding officer's approval directly from the supplier. Care must be taken

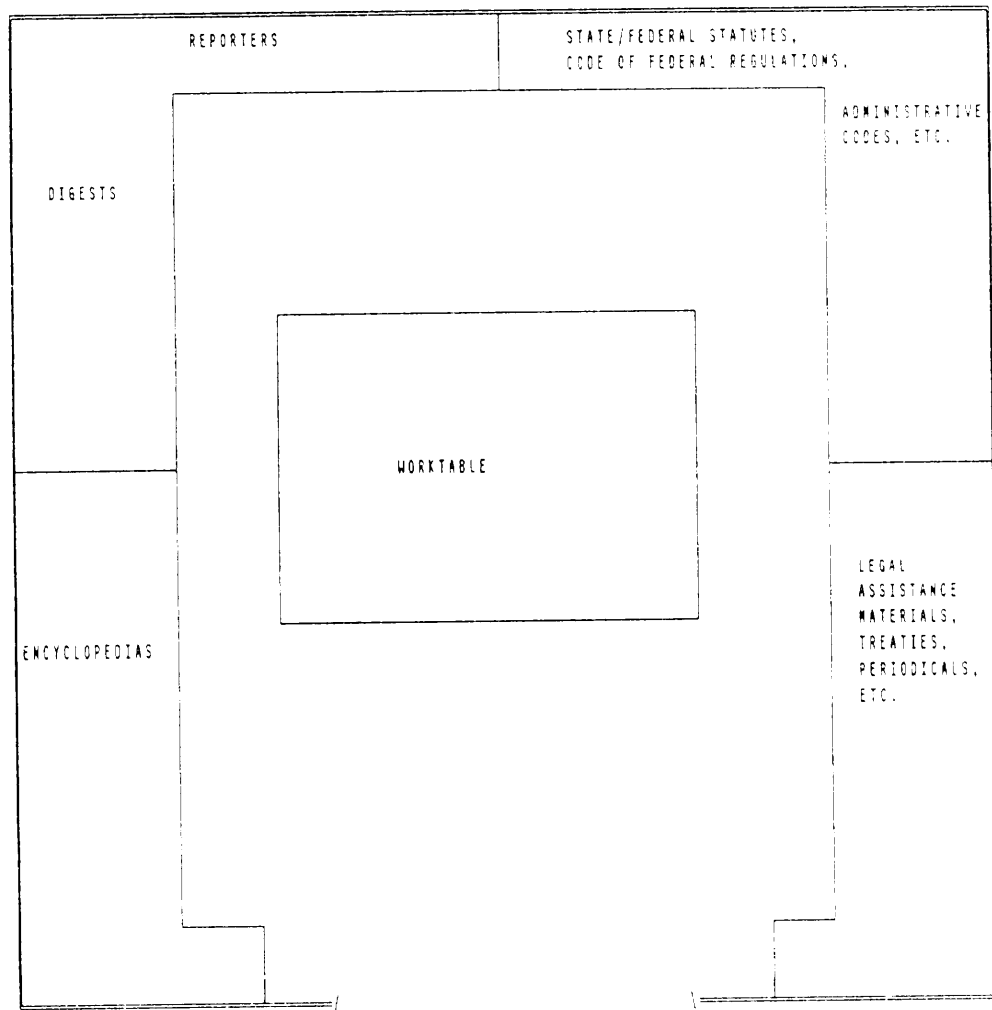


Figure 2-3.—Library layout for large library.

that these are mission essential and support the work of the ordering activity.

LAW LIBRARY MAINTENANCE

One of the most important tools used by lawyers in performing their duties is legal research. The effectiveness of legal research depends on how well legal reference materials are maintained and kept up to date. As an LN, you play an important role in the upkeep of the library. At the same time, you will need to know how to arrange the materials in the library, how to file these materials, how to keep these materials up to date, and how to keep track of these materials. There are no standardized methods prescribed for maintaining a law library; however, the following discussion and

suggestions should help you in performing your duties as a law librarian.

ARRANGEMENT

Having a definite arrangement of materials contained in the law library will help you keep track of these materials as well as making it easier for those using the library to locate specific reference materials. The first step you should take in arranging these materials is to determine where the various materials are located. Not all the materials contained in the library will be kept in a central location. You will probably find that some of the lawyers will want to keep specific materials in their offices for ready reference. You may also find, especially in large NLSOs, that the materials related to

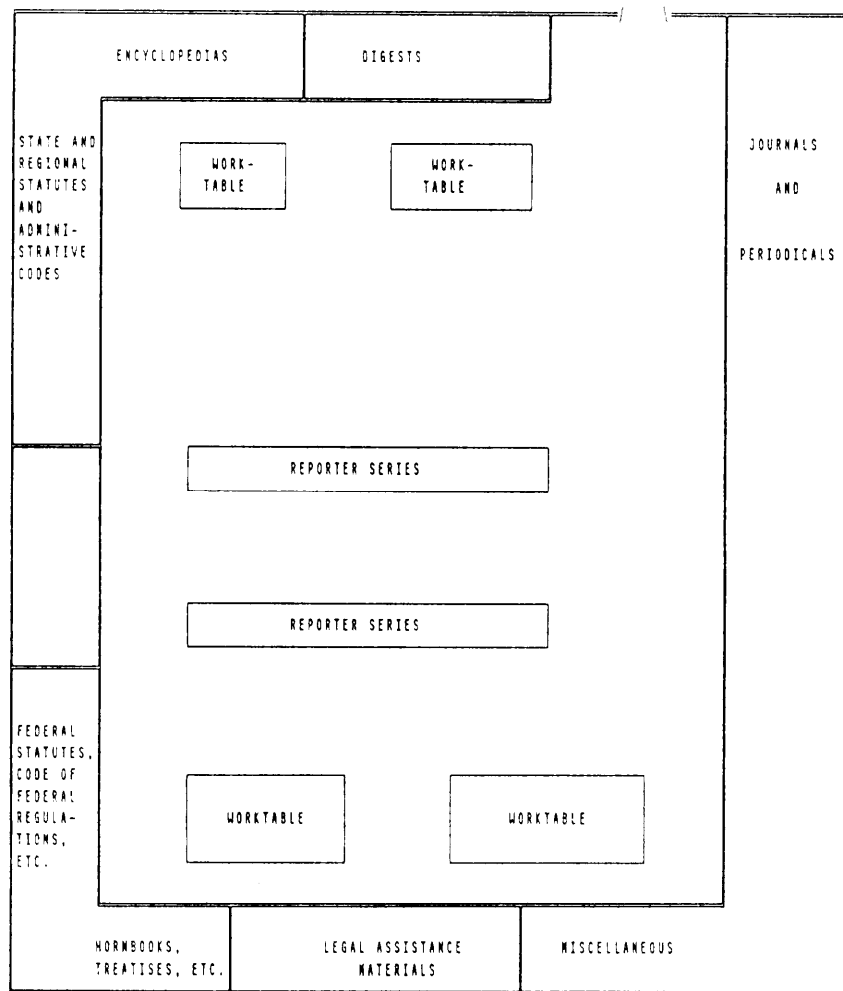


Figure 2-4.—Library layout for small- or medium-sized library.

specific areas of law, such as military justice, legal assistance, and claims, should be kept in the spaces of the division primarily concerned with those specific areas. Even though some of the materials contained in the library are located in various offices, there are certain materials that should be kept in a central location. These include such materials as finding tools, reporters, and certain sets containing statutes. A definite arrangement is needed in the central library for these particular materials to help you and those individuals using the library to locate specific references quickly and easily. The arrangement of the materials kept in separate offices should be left up to the individuals controlling those offices. However, the accountability for these materials is still your responsibility since they are part of the law library.

Legal research frequently entails the use of several books simultaneously. Observe someone researching the law and you will see that person find a point of law

in one book, then obtain another book to help develop that point, then refer to another book to develop it further, and so on until that person has refined it to its most effective point. This process involves the examining of a law from many varied sources. The physical arrangement of the library should be established in a manner that will permit the researcher to reach each of these books with a minimum of wasted motion. Space and equipment limitations will dictate the most effective layout for your library. Figures 2-3 and 2-4 show two sample arrangements.

The following suggestions may be helpful to you in determining the arrangement of the materials in your library.

- Organization by major subject—In some libraries, the books are shelved in groups based on their major subject content (military justice, criminal law, or admiralty law).

- **Organization by type of publication**—This involves the arrangement of the materials by the type of publication, such as encyclopedias, journals, treatises, statutes, and reports.

Either of these methods is effective or as an alternative, a combination of these methods may be used in arranging the materials in the library. Whenever you use one of these suggested methods or some other method of your own design, you should first take a look at what types of materials are contained in the library and then make a determination as to which method or methods would work best.

MAINTENANCE PROCEDURES

The importance of properly filing, updating, and accounting for the materials contained in the library cannot be overemphasized. This should be accomplished immediately upon receipt (or upon completion of office routing) of any new materials. There can be no excuse for an error caused by using an out-of-date lawbook when the update is sitting off in a corner. The following hints are given to help make your job easier in these areas.

Filing

As you begin working with the various types of materials contained in the law library, you will discover that the publishers of these materials have designed the format of each publication to allow for frequent and continuous updating. This is necessary to keep up with the constant changes that occur in the laws that govern our states and country. The methods used to update these materials vary with each publisher, but the most common ones that you will work with are loose-leaf supplements, pocket parts, interim pamphlets, advance sheets, bound volume replacements, and bound volume supplements. Because of these variances, you should carefully read any instructions the publishers have prepared about the proper methods to make changes and updates to their published materials. Let's take a look at these seven methods and see how they are used to keep the materials in your library up to date.

- **Loose-leaf supplements**—As the name implies, these materials are loose-leaf and are usually kept in special binders provided by the publisher. *U.S. Law Week*, published by the Bureau of National Affairs (BNA), and the *Military Law Reporter*, published by Public Law Education Institute, are examples of loose-leaf services you may find in the library. *U.S. Law Week* is designed to keep lawyers current on selected new

laws, regulatory agency interpretations of new and existing laws, and recent opinions of the U.S. Supreme Court and lower federal courts. The *Military Law Reporter* is designed to keep military lawyers current on selected new laws, regulations, and directives of the armed forces, and recent opinions of the U.S. Court of Military Appeals and the published and unpublished opinions of the Army, Air Force, and Navy Courts of Military Review.

You should file these loose-leaf supplements as soon as possible after receipt. Special emphasis should be placed on following the filing instructions—this may appear time-consuming but is often the quickest method to make sure the loose-leaf service is properly maintained.

- **Pocket parts**—These supplements are published periodically (usually annually) and are designed to fit into a pocket provided by the publisher inside the book cover of the bound volume for which the pocket part has been printed. The *U.S. Code Annotated* (U. S.C.A.), published by West Publishing Company, uses the pocket part system. It is important, when filing pocket parts, to make sure each pocket part is placed in the proper volume and the outdated pocket part is discarded.

- **Supplementary pamphlets**—These are sometimes published as an alternative or an addition to a pocket part. They should normally be shelved beside the volume(s) they supplement. Instructions on the pamphlets will inform you of whether or not you should discard the pocket parts. The U.S.C.A. usually contains several supplementary pamphlets at any given time.

- **Interim pamphlets**—These are published at various times, usually to update a set between issuance of annual pocket parts or other periodic updates. For example, U.S.C.A. pocket parts are published around March and normally include all updates through the last calendar year adjournment (session) of Congress. Then, usually in June, September, and November—but these months can vary—the publisher will issue an interim pamphlet to incorporate laws passed since the last session. Not many sets contain interim pamphlets, but the instructions on those received should be followed closely.

- **Advance sheets**—These are paperbound volumes, usually prepared and sent out before the printing and publication of the hardbound volumes. The *Military Justice Reporter* is the most common set that uses these advance sheets. These advance sheets should be placed on the Shelves immediately following the latest

BLACK'S LAW DICTIONARY

SIXTH EDITION

Publisher: West Publishing Company

One Volume

Location: SJA's Office, Room 101

Figure 2-5.—Catalog card.

hardbound volume and should be discarded when they are replaced by the appropriate hardbound volume. Hardbound volumes may contain revisions of the advance sheets, a good reason for discarding the advance sheets when you receive the hardbound volumes.

- **Bound volumes replacements**—Bound volumes are often published to replace outdated volumes in a set, sometimes two or more new volumes will replace an old volume. In these cases, the old volume should be discarded. The U.S.C.A. normally receives 12 replacement volumes each fiscal year.

- **Bound volume supplements**—Occasionally a supplement is published in the form of a bound volume, in that case you do not discard the basic volume but merely shelve the bound volume supplement next to it. If a pocket part is later published, it will state whether it is to be placed in the rear of the basic volume or the supplementary volume. The U.S.C.A. frequently contains several bound volume supplements.

Accountability

An important function of your duties in maintaining the library is keeping track of the materials contained in the library. To be able to quickly account for the whereabouts of all material belonging to the library will help you and the persons using the library. Furthermore, it will also save command funds because replacement items will not be required because of losses due to a poor accounting system. The size of your library and the

needs of the library users will generally dictate the type of accountability used. For most libraries, it is recommended that the books be cataloged using a simple card index system (see fig. 2-5) that lists the following minimum information for each item:

- Title of the reference material
- Edition (if applicable)
- Publisher
- Number of volumes
- Location of the reference material

In addition to setting up a card catalog system as suggested previously, you also should set up a checkout system to keep track of those materials that are borrowed from the library. Two different check-out systems are described in the following paragraphs.

- **Check-out card**—This is probably the most effective system that can be used. It consists of placing a check-out card in either the front or back of each volume of reference material. This card should contain enough information to identify the specific volume it came from and should provide sufficient space for the individual checking out the material to enter the date checked out, the individual's name, and the individual's office and/or command. When a book is checked out, the card may be placed on the shelf in place of the book, or all check-out cards may be kept in a central location for

Am Jur 2d		
Vol. 12		
PLEASE PRINT YOUR NAME		
DATE	NAME	OFFICE/CMD

Figure 2-6.—Check-out card.

easy reference. Figure 2-6 is a sample of a check-out card.

• Sign-out list—This system is effective for use in a small library and consists of a simple sign-out sheet with space provided for individuals to enter the date material is checked out, the title of the material, the individual’s name, and the individual’s office and/or command. The sign-out sheet should be kept in a highly visible location where it will remind people to sign for the books they are borrowing. Near the door of the library would probably be the best location. Figure 2-7 is a sample of a sign-out list.

Whether you use one of these suggested systems or some other system, the system that is used can only be effective if it is actively controlled by the person who is in charge of maintaining the library.

In addition, it is a good idea to have each volume identified in some way to show that it came from your

library. An easy way to do this would be to stamp each individual volume or item with the return mailing stamp used by your office or command. This maybe time-consuming initially, especially if none of the volumes have been previously identified. On the other hand, it is an easy task to stamp each new item on the three outside closed book edges and on the margins of pages 1 and 101—a common library practice—as soon as you receive them.

The need to maintain a reliable and effective means of accountability for the materials contained in the law library can be appreciated when you consider the high cost involved in replacing lost or damaged legal reference materials.

Ordering Materials

From time to time, you will probably discover that some of the books or materials contained in your library have been lost or damaged. When this occurs, you

DATE	NAME	TITLE	OFFICE/CMD

Figure 2-7.—Sign-out list.

should make a list of these lost or damaged books, indicating where replacement books may be obtained and whether these replacement books will be funded by JAG or out of command funds. Once this has been done, you should provide this information to your immediate supervisor who will then inform the appropriate individual in your office, usually the head of the office, and a determination will be made about the replacement of these lost or damaged books. If it is determined that the lost or damaged books are to be replaced, then a request for replacement will be prepared by your office and sent to the appropriate activity for the purchase of the replacement books.

In the case of new materials, you will probably be asked to check where and how this material can be obtained and whether or not the purchase of such material is funded by JAG or from local command funds. The information about this new material will then be sent through your immediate supervisor to the

appropriate individual in your office, again this is usually the head of your office, where a determination will be made as to whether or not this material is needed for use in the library. If it is decided that this material is needed, then your office will prepare an appropriate request for the material. For materials funded by JAG, a letter request will be prepared by your office with an explanation as to why this material is needed for use in your office library, and the request is then sent to the appropriate office in JAG where a final determination will be made on the purchase of this material. For materials that are to be purchased through the use of command funds, your office should prepare the appropriate request forms and send them to the office within the command that handles such purchases.

Reports

As discussed earlier in this chapter, the Head, Field Library section in OJAG prepares and sends out an

annual report to each field library activity listing those commercial lawbooks and services that are maintained by JAG for the particular field library (see fig. 2-2). When this report is received by your office, you will probably be tasked with checking those items listed in the report against the contents of the library. This can be done quickly and easily if you have an effective system of accountability established. After you have completed this check of the library, you should send your findings through your immediate supervisor to the head of your office who will then complete the report and send it to JAG. Even though this may be the only report you will have to work with concerning the library, there may be occasions when the Head, Field Library section may desire a special report about specific books and materials contained in your library. If such a report is received, it should be handled according to the instructions that accompany it.

LEGAL RESEARCH

Even though you may not be directly involved in the actual performance of legal research as an LN3 or LN2, you may be required to locate reference materials for the lawyers in your office. The following paragraphs should help you become more familiar with the types of materials normally contained in a law library and how these materials are related to the basic legal research categories mentioned earlier in this chapter. In addition to this, we will also discuss what is meant by citing a legal source and how to use these citations to locate specific references.

REFERENCE MATERIALS

At the beginning of this chapter, we took a brief look at the three broad categories that legal reference materials fall into, these being primary sources, finding tools, and secondary sources. Let us look at these categories a little closer and see what types of materials are contained in each.

Primary Sources

Primary sources have been defined as those recorded rules of human behavior that will be enforced by the state. These rules may be recorded in federal or state statutes, administrative and executive regulations, issued to comply with a legislative authorization, or as court decisions.

- **Statutes**—Statutes are published by jurisdiction and in chronological order of enactment. Chronological

publications of these laws are called session laws. One such publication of federal laws that will probably be part of your library is *Statutes at Large*. Because these laws are listed in chronological order and not by subject and date of passage, it is difficult for the researcher to locate a particular law. To help solve this problem, these laws are codified by subject matter and the laws that pertain to a particular subject, regardless of when they were passed, are found together under a specific subject codification. Normally, your library will have either the U.S.C. published by the GPO, which is the official codification of federal statutes or the U.S.C.A. or the U.S.C.S., which are unofficial versions published by West Publishing Company or Lawyers Cooperative Publishing Company, respectively. You may also find that you will have similar codification for state statutes contained in your library covering the laws for the state where your command is located.

- **Regulations**—Administrative and executive regulations provide the guidelines to be followed in carrying out certain statutes. For example, the MCM was published according to the directive issued as Executive Order 12473 of August 1, 1984, to comply with federal legislation enacted that affected the application of military justice in the Armed Forces of the United States. Another example is the regulations and instructions used by the Internal Revenue Service to provide the guidelines for implementing federal tax laws. Federal regulations are officially printed in the *Federal Register*. Because the *Federal Register* is published in chronological order, the same as *Statutes at Large*, the same problem exists for the researcher trying to find a specific regulation. To help solve this problem, the *Code of Federal Regulations* (C.F.R.) was developed and serves the same function for regulations that the U.S.C. serves for statutes.

- **Court decisions**—One of the bedrock principles of our judicial system is *stare decisis et non quieta movere*, which basically means to adhere to precedent and not to unsettle things that are settled. Questions arise daily that require interpretation of the law. These questions are resolved by the courts (usually appellate courts), and these decisions become law.

Case decisions are collected and published in chronologically arranged volumes that become a very important part of your library. As an LN, you will be concerned primarily with the reports of cases that have been decided by the U.S. Supreme Court, the U.S. Courts of Appeals for the federal circuits, federal district courts, the U.S. Court of Military Appeals (U.S.C.M.A.), and the Navy and Marine Corps Court of

Military Review (N.M.C.M.R.). The case decisions handed down by these courts can be found in official and unofficial publications called reporters. The reporters that you will most likely come in contact with are the *U.S. Supreme Court Reporter*, the *Military Justice Reporter*, the *Courts-Martial Reports*, the *Federal Reporter*, and the *Federal Supplement*. (**NOTE:** The last bound volume of *Courts-Martial Reports* (C.M.R.) was volume 50, published in 1975. The *Military Justice Reporter* (M.J.), Which began publication in 1978, picks up where the C.M.R. leaves off. Those cases reported in advance sheets published between 50 C.M.R. and 1 M.J. are included in 1 M.J.) Additionally, you may have in your library a state and/or regional reporter (from West's National Reporter System) covering the decisions of state and local courts for your command's location. Not all states have individual reporters available. Many states use the National Reporter System developed by West Publishing Company. The size of your office, as well as the type of services provided by that office, will have a large bearing on determining what type of reporters will be maintained in the library.

Finding Tools

As you can see from the previous discussions concerning primary sources, there are many different sources that cover a vast number of laws, regulations, and court decisions. To help the researcher, several different types of materials have been developed to aid in finding the information contained in the primary sources. The three basic types of finding tools are digests, legal encyclopedias, and citators.

- **Digests**—To impose some sort of order for the more than 3 million reported case decisions related to federal and state laws, digests were developed to classify these cases according to their legal topics and then arrange these topics in alphabetical order. These digests provide the researcher with citations to specific uses and a very brief, often one-sentence digest of each point of law addressed in each case. The digest (called a headnote when appearing at the head of the case in the reporter) is provided to help the researcher decide which of the cases cited might prove helpful to the researcher if the entire opinion of a particular case were to be examined.

Probably the most comprehensive of these digests is the *American Digest System* published by West Publishing Company. This digest system was developed for use in conjunction with West's *National Reporter System*. Three of the other digests published by West are the *Federal Digest*, the *Modern Federal Practice*

Digest, and the *Federal Practice Digest 2d*. The *Federal Digest* is used for finding federal case law from 1754 to 1939, the *Modern Federal Practice Digest* from 1940 to 1960, and the *Federal Practice Digest 2d* from 1961 to date. All three sets are needed to complete federal case law coverage although upkeep and accounting to JAG is required only to the latest. These three digests are common to all the NLSO law libraries you will encounter. They use a system where general topics are subdivided into smaller subtopics identified by key numbers that can be used for easy reference. The key numbering system was developed by West Publishing Company to help the researcher quickly find applicable laws. The topics and subtopics are set out alphabetically in these digests and identified with key numbers to give the researcher cross-reference to cases involving similar subject matter. Detailed instructions on how to use this key number system can be found in each of the digests and in Price and Bitner's *Effective Legal Research*, which is published by Little, Brown, and Company.

- **Encyclopedias**—A second source for finding cases is through the use of a legal encyclopedia. Even though these encyclopedias state the law, they are of dubious value in that they tend to overgeneralize. The researcher may, however, find in the footnote citations in encyclopedias a source of cases that can be used to branch out through the use of digests or a citator. The national legal encyclopedias are *American Jurisprudence 2d* and *Corpus Juris Secundum*, published by the Lawyers Cooperative Publishing Company and West Publishing Company, respectively.

- **Citators**—Still another type of finding tool that can be used, more for determining the history or status of a case than as an initial source for finding the case, is the citator. The most common of these is *Shepard's Citations*. This particular citator is the most comprehensive and widely used citator available in that it allows the researcher to accomplish the following actions:

- To trace the judicial history of each reported case, including proceedings following the cited decision

- To verify the current status of each reported case so as to determine whether it is still effective law, or has been modified or overruled

- To find later cases that have cited the main case

- To find citations in periodical articles and attorney general's opinions

Additionally, pamphlets are issued on a regular basis by Shepard's to reflect the most recent developments and then the information printed in these pamphlets is eventually printed in bound volumes. Specific instructions on how to use this citator can be found in each of the bound volumes and in *How to Use Shepard's Citations* printed by Shepard's Citation, Inc.

One final case finder you may encounter while working with the law library is *Words and Phrases* which is published by West Publishing Company and contains thousands of legally significant words and phrases arranged in alphabetical order. Each of these words or phrases is followed by a definition and a citation to the decision from which the definition was taken. Additionally, this particular case finder is kept up to date with pocket parts issued annually by the publisher.

Secondary Sources

Secondary sources may be defined as those legal materials that are not in any way binding, although they may be persuasive, upon the courts. Included, among others, are treatises and periodicals.

• **Treatises**—Treatises run the gamut from the most scholarly treatment of a particular legal subject to practice guides that make no pretense to scholarly analysis. Depending upon where they fit into this spectrum, they may be divided into the following groups:

- Scholarly surveys of particular fields in depth
- Hornbooks, student tests, and treatise abridgements
- Practitioners' handbooks in particular fields
- Specialized monographs on more or less narrow topics
- Comprehensive commentaries, histories, and works of juris prudence

The greatest danger involved to the researcher in the use of treatises is sometimes one of currency. A survey that is one day definitive in a given subject area may become quickly obsolete unless revised to reflect changes in the area.

• **Periodicals**—Periodicals are issued by law schools, bar associations, private publishers, or just about anybody else who has something to say and the money to pay for their publication. As you might guess, the quality varies from the first-rate scholarship of the best law school reviews to the hackwork of some special

interest groups. In addition to the periodic indexes issued for the individual publication, there are a number of periodical indexes, most useful of which is the *Index to Legal Periodicals*. The *JAG Journal* and *Off the Record* are two periodicals of particular interest to Navy practitioners. Other publications that should prove useful are the *Military Law Review* (Army) and the *Air Force Law Review* (formerly the *United States Air Force JAG Law Review*).

FINDING CITED SOURCES

The use of citations in law serves as a means to identify the reference materials used in the preparation of legal writings. To standardize the system of citing legal references, the Harvard Law Review Association developed and published a comprehensive and standard system of citations known as *A Uniform System of Citations* (U.S.O.C.). The U.S.O.C., even though it does not adequately provide citation procedures to be used with military law, has been officially adopted for use throughout the Navy. In an effort to supplement the U.S.O.C. in those areas that are not adequately covered, JAG has developed supplemental guidelines, which can be found in JAGINST 5850.2, to be used with citing military law.

Although the combined system may at times seem needlessly complicated and arbitrary, it has the virtue of identifying precisely to the reader the exact reference intended by the drafter of legal material,

As an LN3 or LN2, you will seldom be required to construct citations to be used in legal writings or to conduct legal research, but you should be familiar with the methods used in citing legal references so you will be able to locate specific cases when you are asked to do so and the only thing you have to work with is a citation. To do this, you will need to know how to translate a citation to locate the source wherein the reference is to be found and the exact page or pages where the reference is located in that source. The following discussion should be useful in helping you become more familiar with the methods that are ordinarily used in citing statutes, court decisions, and other references. In addition to these discussions, specific information and instructions concerning citations may be found in the U.S.O.C. and in supplementary material supplied by JAG.

Statutes

Federal statutes are ordinarily cited to the U.S.C. by the title and section number, as well as the year the

statutes were published. For example, a citation referring to section 501 of Title 10 of the U.S.C. would read 10 U.S.C. §501501 (1970). When *Statutes at Large* are cited, the volume and page number and date published would be used in the citation; for example, 47 Stat. 1470 (1933). However, in practice, reference is almost always made to the U.S.C. You may have occasion to look up a statute that has not yet been incorporated into *Statutes at Large* or U.S.C. When this occurs, the statute is referred to by the public law number assigned to it. This number can be found in the slip law that is an advance publication of the statute printed as a means of disseminating this law before incorporating it into *Statutes at Large* and the U.S.C. A citation using a public law number will tell what session of Congress passed the law, the number assigned to it, the section being referred to, and the date the law was enacted. An example of a citation using a public law number would read, Pub.L.No. 89-320, § (Feb 11, 1965). This information can also help you find a public law in *Statutes at Large*. Citations of state statutes usually refer to the official code for that particular state. In cases where a state statute has not yet appeared in the official code for that state or if that state has no official code, then the citation usually refers to the preferred unofficial code. For example, a citation referring to a particular statute published in chapter 41 of the Massachusetts General Laws would read as Mass. Gen. Laws ch. 41, § 95 (1932), which also tells you what section is being referred to and when the statute was published. State statutes may also be cited referring to that particular state's published session laws, which are the state's equivalent to *Statutes at Large*.

Court Decisions

Court cases are cited by names (plaintiff v. defendant) excerpted from what is called the style of the case. The citation of a court case refers to both the official (where there is one) and unofficial reporter, followed by both the title of the court that made the decision and the year in parentheses. The citation will show you the volume and page number where the cited case may be found. For example, a citation referring to a case decided by the Supreme Court of Virginia would be shown as *Henderson v. Commonwealth*, 215 Va 811, 213 S.E. 2d 782 (1975). The title of the court is not shown in *Henderson, supra*, because citations to state court decisions are presumed to be referring to the highest court of that particular state unless some other court is named in the citation. A citation to a case decided by the District Court of Appeals in Florida, which has no official reporter, would be shown as *Lopez v. State*, 372

So. 2d 1136 (FL Ct. App 1979). Where a court decision has not yet been published in an official or unofficial report, the citation will refer to the slip opinion (an opinion printed in advance of the publishing of the case decision in an official and unofficial reporter) and will cite the style of the case, docket number, the court of record, and the date the case was decided. Normally, citations of cases will provide you with the following information: the name (style) of the case, the name of the reporter and the volume the case can be found in, the page number where the opinion begins, the court that decided the case, and the year or date the decision was made. For example, *United States v. Mathew's*, 6 M.J. 357 (CMA 1979) refers to a case decided by the U.S.C.M.A. in 1979 and can be found in volume 6 of the *Military Justice Reporter* on page 357. Additional information concerning case citations and what they mean can be found in the U.S.O.C., JAG Instruction 5850.2, and Price and Bitner's *Effective Legal Research*.

Other Sources

A citation for a treatise would refer to the volume number (if more than one), the author, title, page, section or paragraph number, edition (if more than one have appeared), and the date the treatise was published. For example, a treatise on the History of English Law would be shown as 1 F. Pollock & F. Maitland. *The History of English Law* 518 (2d ed. 1898). Citations of legal writings contained in journals and periodicals that are paginated consecutively throughout a volume refer to that volume number, abbreviated title of the periodical or journal, page number and year published, as well as the title of the article and name of the author. For example, a citation for an article appearing in the *Harvard Law Review* would be shown as Chafee, *Equitable Servitudes on Chattles*, 41 *Har. L. Rev.* 945 (1928).

Legal encyclopedias are referred to in citations by volume, abbreviated title of the encyclopedia, subject title, section number, and date printed. For example, a citation referring to contracts in *American Jurisprudence* 2d would appear as 12 *Am. Jur. 2d Contracts* § 15 (1965).

AUTOMATED RESEARCH SYSTEMS

As you progress in your career as an LN, you will witness that even the legal field is going high tech, Computers are here and the effects of their existence are already being felt. Legal research is fast becoming part

of the technological age. Using a system of computerized research can be costly to the user if the right system is not chosen. Even though automated systems are time-savers, a user must be aware of alternatives. The following paragraphs provide you with a brief overview of automated systems. Whether or not your command uses an automated system depends on the attorneys and budget limitations.

Federal Legal Information Through Electronics

Federal Legal Information Through Electronics (FLITE) is an automated legal research system established by the Department of Defense and operated by the Department of the Air Force for use by all federal agencies. FLITE is the best bargain of all the existing systems since its services are available at no cost to judge advocates. FLITE uses computer technology to help federal employees and military members obtain more accurate and comprehensive legal research, saving time and effort. FLITE performs the following services:

- Creates and maintains full-text data bases of legal information
- Provides computer-assisted research to all federal agencies
- Produces and distributes computer-generated research tools such as indexes, digests, and citations
- Provides advisory service to federal, state, and local governments relating to automated legal research systems

FLITE does not give legal opinions or supply legal memorandums. Its role is to provide cases, decisions,

statutes, regulations, and other legal references that are relevant to the user's problems.

Other Available Systems

In addition to FLITE, several other automated research systems are available to the legal profession. However, unlike FLITE, they do not fit into the realm of a tight budget. Other available systems such as WESTLAW, LEXIS, and JURIS require a significant cash outlay for installation and continuing expenditures for usage and equipment rental. As a senior LN, you might be tasked with a budget input for your command regarding the use of automated research systems. If so, the cost factor may be the deterrent that prevents your command from using services other than FLITE. However, FLITE research attorneys have access to WESTLAW, LEXIS, and JURIS as well as other existing systems. Although automated research systems are the coming event in the legal profession, it may be a while before they are the primary research systems in the Navy.

SUMMARY

As you can see, the maintenance of a law library is an important part of your duties as an LN. Your familiarity with the maintenance and upkeep procedures of the law library will help you as a future LN1 or LNC to become more involved in the actual performance of legal research and the preparation of legal writings. Although attorneys are better trained to conduct effective legal research, senior LNs are increasingly being tasked to aid those attorneys in this area. This chapter has described how to carry out legal research by using primary and secondary sources and by citing sources. With a working knowledge of how to use finding tools, you will become an effective paralegal conducting legal research.